

## **EXHIBIT 2.18: PUBLICATION AND EXTERNAL DISTRIBUTION OF REPORTS**

### **CALTRANS AND FHWA POLICY**

FHWA's policy towards the publication and distribution of archaeological reports is addressed in the responses to questions No. 18 and No. 25 of their *Guidance on the Consideration of Historic and Archeological Resources in the Highway Project Development Process* (1988). Under question No. 18, it is stated that a "limited number of copies of reports may be made available to the archeological community if it is determined by the Division Administrator to be in the public benefit and without financial gain to any party." Under question No. 25, FHWA approves of the use of Federal Aid highway funds to pay for "reasonable, justified efforts; such as...limited non-profit publication; performed as a part of an approved research design...."

It is Caltrans' policy "to encourage and support publication/presentation of employees' (or consultant) work-related, technical or educational reports when they add to, expand upon or revise existing knowledge in the field of transportation or other professional specialties (e.g. Architectural History) within the Department" (Policy and Procedure, 82-7 [revised 10-2-84], *Publication of Employees' Work-related and Other Technical Reports*). Only those archaeological reports of substantial interest and high quality are candidates for publication.

It is Caltrans' policy to sell reports at cost, thereby meeting FHWA's stipulation of "no profit", as well as abiding by California highway law which prohibits "making a gift of public funds", i.e., selling reports below cost. Cost includes the cost of report preparation, including the graphics, as well as reproduction.

### **PROCEDURES FOR EVALUATING PROPOSED PUBLICATIONS**

Reports are evaluated on a case-by-case basis. The archaeologist responsible for the report either as author or consultant monitor submits to the DEBC an abstract of the proposed publication and a memo recommending number of copies, price, and proposed distribution. The DEBC evaluates the request and submits a recommendation to the District Director if the request is supported. If the District Director concurs with the recommendation, the request for approval is submitted to the Chief, Division of State and Local Project Development (DSLPD), who makes the final decision on publication and authorizes the use of Caltrans support services. It is anticipated that the Chief,

DSLDPD, will consult with the CCSO Chief on publication of archaeological reports.

If a Headquarters archaeologist is responsible for the report, either as author or consultant manager, a similar request is submitted through the archaeologist's branch chief and the SCO Chief. The approval of such requests has been delegated to the CCSO Chief from the DSLPD Chief. The CCSO Chief will also consult on this decision with the DEBC responsible for the project.

## **PUBLICATION AND DISTRIBUTION**

The sale price of the report, if sold by Caltrans, is set at cost, including preparation expense. The report is sold through the Central Publications Distribution Unit. The use of other agents to print and distribute such documents is encouraged, on a case-by-case basis, to reduce Caltrans' work; such agreements must be approved by Caltrans Legal Division.

## **MANDATORY CLAUSES**

A consultant may publish an accepted final report. A consultant's report, published either by the consultant or by Caltrans, must include

- the contract cost and contract number on the title page per Government Code 7800;
- a credit reference, "Prepared in cooperation with the State of California, Business, Transportation and Housing Agency, and the U.S. Department of Transportation, Federal Highway Administration";
- a disclaimer statement, "The contents of this report reflect the views of the author who is responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California or the Federal Highway Administration. This report does not constitute a standard, specification, or regulation."

Under state and federal law, a consultant is free to copyright material developed under a Caltrans contract, with the condition that the State and the Federal Highway Administration reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the report for Government purposes. Such a clause should be included in any Caltrans contract involving archaeological reports.

If Caltrans and/or the FHWA do not concur with the consultant's finding or conclusions, the consultant must include a statement that this is so, and must include any Caltrans or FHWA technical comments in the report in a clearly

identified section such as "Sponsor's Comments". The DEBC is responsible to see that these comments are included in the document.

## **MANDATORY DISTRIBUTION LIST**

Caltrans mandatory distribution of reports includes:

- FHWA;
- SHPO;
- Advisory Council on Historic Preservation (if the report is a data recovery prepared under a FNAE or MOA to which ACHP is a party);
- California Native American Heritage Commission;
- CHRIS Information Center.

FHWA may request that Caltrans forward a copy to the Department of Interior, National Park Service Archaeological Assistance Division, in Washington, D. C. for possible listing with the National Technical Information Service (NTIS).